



THE CITY OF SAN DIEGO

**REPORT TO BUDGET AND FINANCE COMMITTEE**

DATE: October 24, 2011

TO: Honorable Committee Chair and Members

FROM: Tony Heinrichs, Director, Public Works Department

SUBJECT: Process Improvement- MULTIPLE AWARD CONSTRUCTION CONTRACTS

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**Recommendation:**

Staff recommends that the existing Design-Build Ordinance be modified to allow another alternative called Multiple Award Construction Contract (MACC). This method of contracting has similarities to the Federal Government's MACC process, and would be beneficial for large programs such as the Water and Sewer Capital Improvement Program.

**Background:**

In 1999 the City Council adopted Ordinance Number O-18631 modifying the Municipal Code to allow the use of design-build contracts. The design-build alternative method of project delivery allows for contracting with a single entity which provides both engineering design and construction services for a project. This process has been successfully used by the City for the last 11 years on a wide array of large and small projects. This process does save time and reduce risk by transferring the project responsibilities to the design-build entity earlier in the process than would be typical of a design bid build process. The City's oversight role during design consists of monitoring and auditing progress, interpreting contract requirements, and verifying design compliance with contract requirements, and assuring compliance with the approved plans during construction. The design-build entity is the Engineer of Record/Work and responsible for delivery of a complete product i.e., project design and construction.

The process of selecting a contractor is a "best value" process considering both cost and qualifications in the selection. A number of different processes are allowed under the existing ordinance. For Design-Bid-Build contracts, the pre-qualified bidders compete on price element only. For Design-Build contracts, the prequalified and shortlisted bidders compete in more than one area because the value of the proposal is no longer limited to price alone; but includes

multiple elements e.g. technical proposal, management plan, Equal Opportunity Contracting commitment levels, etc.

Each bidder is required to submit their price proposal (in a sealed envelope) and non-price proposal separately.

The City currently uses 3 variations of the process as follows:

- A) 2-step process that includes a Request for Qualifications (RFQ) followed by short-listing firms who have submitted a Statement of Qualifications (SOQs) and then respond to Request for Proposal (RFP). In a 2-step process only 3-5 firms are selected during the RFQ process to proceed with the RFP step.
- B) 1-step process that combines the RFQ and RFP into one step allowing those contractors previously determined pre-qualified under the City's Contractor Prequalification Program to submit a proposal.
- C) As-Needed process that includes Request for Qualifications (RFQ) followed by short-listing of three or more firms who have submitted Statements of Qualifications (SOQs) and are then provided the opportunity to compete on multiple RFPs related to the project types described in the RFQ. The City currently has As-Needed design-build entity lists for several types of projects e.g., roadway improvements, park improvements, facilities improvements, and water, sewer and storm drain improvements.

There are several industry (i.e., Design Build Institute of America) accepted selection formulas. The City uses:

1. Weighted Criteria: Weights are assigned to the selection criteria e.g., 65% for Price and 35% for Non-price factors. The entity with the highest score is selected for the project.
2. Adjusted Low Bid: The best value entity is selected based on the lowest cost after dividing the entity's Price by the Non-price Score.
3. Best Value: Fixed price: Technical proposals are compared using non-price criteria e.g., technical and design concept proposed with each Design Build Entity demonstrating what would be constructed for a fixed price.
4. Meet Criteria/Low Bid: Price proposals are compared with technical proposals that meet certain minimum criteria.

The City's standard RFQ and RFP "boiler specifications" describe the selection; award and the scoring process in detail such that the potential Design-Build Entities know where to concentrate their efforts prior to proposal submittals.

## **DISCUSSION:**

The MACC program would be a variation of the current As-Needed Design-Build process. While the draft ordinance has not been written and the final recommendation fully developed, the process is expected to use one of the three selection processes described above. Once the selection process is completed the selected entities and their qualifications would be brought to Council as a group for approval of a contract (\$5,000 or less) for each Design-Build Entity.

Each entity would provide bonds and insurance for the contract when approved. Council approval would authorize these contracts, identify the asset types or funding mechanism to be used with that MACC, set limits for the total value of all task orders issued under the MACC, and establish reporting requirements. An example would be a MACC for water, sewer and storm drain pipe projects, or for use on projects using a specific bond or other funding source.

Once the contracts have been issued, an RFP for each specific project would be issued under the MACC, and one of the existing selection formulas mentioned above would be used to identify the best value design-build entity. That design-build entity would be awarded a task order under the MACC contract, and the work would begin shortly after.

The MACC would have a total maximum amount for all task orders that could be awarded through that solicitation, and a limit on the value of each task. These limits would be defined and presented for approval by the City Council and the Mayor with the MACC contracts when initiated. An example of the total limit might be a \$30,000,000 limit for a \$100,000,000 Deferred Maintenance bond, or \$100,000,000 limit for \$300,000,000 worth of water and sewer utilities work. Each task order would have a lower limit of \$1,000,000 to prevent conflicts with the SLBE and ELBE programs. Authorization to issue task orders between \$1,000,000 and \$10,000,000 would be delegated to the Mayor for implementation of the MACC program. The contracts would also have a five year time limitation. No task order would be issued after three years to assure the work is complete before the expiration of the five year period.

**Conclusion:**

The recommendation to allow a MACC process would require an amendment to the Design-Build Ordinance with specific modification as described above. With the implementation of this process, significant time savings would be realized. The issuance of contracts would put in place all the insurance and bonds necessary to award each task. This change is estimated to save at least three to four weeks from the current process. By authorizing the Mayor to award the actual project task orders, the new process will reduce the time to issue a Notice To Proceed to a contractor by one to three months. Finally the use of a MACC would reduce the total number of contract actions being processed allowing staff to focus on other important project contract actions. In total, the MACC is expected to shorten the contract award time by two to four months per project, reduce the cost of award by more than \$10,000 on each task order, and speed up the remaining projects being awarded..

  
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cc: Darren Greenhalgh, Deputy Director, Engineering & Capital Projects Department